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Cook County Recorder 75.50

AGREEMENT FOR THE SALE AND REDEVELOPMENT OF LAND

(The Above Space For Recorder's Use Only)

This **AGREEMENT** is made on or as of the 19th day of FEBRUARY, 1999, by and between the **CITY OF CHICAGO**, an Illinois municipal corporation ("City"), having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 and **NEW ROGERS PONTIAC/EAST LAKE MANAGEMENT AND DEVELOPMENT JOINT VENTURE**, an Illinois joint venture ("Purchaser"), comprised of New Rogers Pontiac ("New Rogers") located at 2720 South Michigan Avenue, Chicago, Illinois 60616 and East Lake Management and Development Corp. ("East Lake") located at 2850 South Michigan Avenue, Chicago, Illinois 60616.

RECITALS

WHEREAS, the Purchaser desires to purchase from the City the real property legally described on Exhibit A attached hereto ("Property"); and

WHEREAS, the Property is located in a redevelopment area known as Project 6C Redevelopment Area ("Project Area") and is commonly referred to as Parcels C-8 and C-9D; and

WHEREAS, the parties intend that the Property will be redeveloped and improved by the Purchaser as two separate and distinct projects: Project A will consist of an approximately 40,000 square foot office and community service building which will be constructed by East Lake on the southerly half of the Property; Project B will be constructed by New Rogers on the northerly half of the Property and will consist of a paved and fenced surface parking lot (Phase I) and an adjacent approximately 15,000 square foot auto and truck showroom and service facility (Phase II). Project A and Project B including Phase I and Phase II thereof collectively constitute the "Improvements", as more fully

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described on Exhibit B attached hereto, which Improvements are consistent with the Slum and-Blighted Area Redevelopment Project 6C Plan ("Plan") for the Project Area;

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each of them hereby covenant and agree with the other as follows:

SECTION 1. INCORPORATION OF RECITALS.

The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

SECTION 2. SALE AND PURCHASE PRICE.

Subject to the terms, covenants and conditions of this Agreement, the City agrees to sell the Property to the Purchaser, and the Purchaser agrees to purchase the Property from the City for the amount of Eight Hundred Forty-One Thousand Two Hundred Ninety and 60 /100 Dollars (\$841,290.60) ("Purchase Price") to be paid by cashier's check or by such other means as shall be satisfactory to the City.

SECTION 3. CONVEYANCE OF PROPERTY.

A. Form of Deed. The City shall convey to the Purchaser title to the Property by Quitclaim Deed ("Deed"). The conveyance and title shall, in addition to the provisions of this Agreement, be subject to:

1. The Plan for the Project Area.
2. The standard exceptions in an ALTA insurance policy.
3. Taxes which are not yet due and owing.
4. Easements, encroachments, covenants and restrictions of record.

B. Title commitment and Insurance. The Purchaser acknowledges that the City has provided a copy of a title commitment issued on April 14, 1997 by Chicago Title Insurance Company showing the City in title to the Property. The Purchaser shall be responsible for any title insurance or endorsements it deems necessary.

C. Survey. The Purchaser shall be responsible for any survey it deems necessary.

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D. The Closing. The closing ("Closing") shall take place at 30 North LaSalle Street, Room 1610, Chicago, Illinois on or before March 2, 1999, or on such date and at such place as the parties may mutually agree to in writing.

E. Real Estate Taxes. The City shall obtain the waiver of all delinquent general real estate tax liens, if any, on the Property. The Purchaser shall be responsible for all taxes accruing after the Closing. Until a Certificate of Completion (as described in Section 9, below) is issued by the City, the Purchaser shall notify the City that the real estate taxes have been paid in full within ten (10) days of such payment. If the City is unable to obtain the waiver of any such tax liens, either party may terminate this Agreement. Within forty-five (45) days following such termination, the City shall return the Earnest Money and Performance Deposit (as described in Section 4, below) to the Purchaser.

F. Recording of Deed. After the Closing, the Purchaser shall promptly record the Deed with the Office of the Cook County Recorder of Deeds. The Purchaser shall pay all costs for so recording the Deed.

G. Escrow. In the event the Purchaser requires conveyance through escrow, the Purchaser shall pay all escrow fees.

SECTION 4. EARNEST MONEY AND PERFORMANCE DEPOSIT.

A. Earnest Money. The City acknowledges that the Purchaser has deposited with the City the amount of Forty-Two Thousand Sixty-Four and 58 /100 Dollars (\$42,064.58) which shall be credited against the Purchase Price at the Closing ("Earnest Money").

B. Performance Deposit. The City acknowledges that the Purchaser has deposited with the City the amount of Forty-Two Thousand Sixty-Four and 58 /100 Dollars (\$42,064.58), as security for the performance of its obligations of this Agreement ("Performance Deposit"), which deposit shall be retained by the City until a Certificate of Completion (as discussed in Section 9, below) has been issued by the City.

C. Interest. The City shall be under no obligation to pay interest on the Earnest Money or Performance Deposit set forth in this Section 4.

SECTION 5. PROJECT BUDGET; PROOF OF FINANCING.

Not less than fourteen (14) days prior to the Closing, the Purchaser shall submit to the City for approval a project budget ("Budget") and evidence of funds adequate to finance the purchase of the Property and the construction of the Improvements. If the Purchaser fails to provide the City with a Budget or proof of financing to the City's

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reasonable satisfaction, the City may declare this Agreement null and void and return the Earnest Money and Performance Deposit to the Purchaser.

SECTION 6. SITE PLAN AND ARCHITECTURAL DRAWINGS.

The Purchaser agrees to construct the Improvements on the Property in accordance with the Site Plan, Streetscape Sketch, Elevations, Floor Plans and Architectural Drawings prepared by Hanna Architects, Inc., which have been approved by the City's Department of Planning and Development ("DPD") and are attached hereto as Exhibit C ("Drawings"). No material deviation from the Drawings shall be made without the prior written approval of DPD.

The Purchaser shall be solely responsible for and shall pay all costs in regard to: the relocation, installation or construction of public or private utilities; curb cuts and driveways; the repair or reconstruction of any curbs, sidewalks or parkways deteriorated or damaged as a result of the Purchaser's redevelopment; the removal of existing pipes, utility equipment or building foundations; and the termination of existing water or other services.

SECTION 7. LIMITED APPLICABILITY.

DPD's approval of the Drawings are for the purposes of this Agreement only and do not constitute the approval required by the City's Building Department or any other City department; nor does the approval by DPD pursuant to this Agreement constitute an approval of the quality, structural soundness or the safety of any improvements located or to be located on the Property. The approval given by DPD shall be only for the benefit of the Purchaser and any lienholder authorized by this Agreement.

SECTION 8. COMMENCEMENT AND COMPLETION OF IMPROVEMENTS.

The construction of the Improvements consisting of Project A and the parking lot portion (Phase I) of Project B shall be commenced within six (6) months of the conveyance of the Property to the Purchaser. Construction of the remainder of Project B consisting of the auto and truck showroom and service facility shall commence within twenty-four (24) months of closing. Except as otherwise provided in this Agreement, Project A and Phase I of Project B shall be completed (as evidenced by the issuance of the Certificate by the City) within eighteen (18) months after such conveyance, and the remainder of Project B will be completed within thirty-six (36) months after closing. Within five (5) days from the commencement of construction of each Project or phase thereof, the Purchaser shall notify the City that construction of the applicable Project or phase thereof has begun.

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SECTION 9. CERTIFICATES OF COMPLETION.

Promptly after completion of each Project or phase thereof, as applicable, in accordance with this Agreement, the City shall furnish the Purchaser with a Certificate of Completion ("Certificate") for such Project or phase thereof. The Certificates shall be a conclusive determination of satisfaction and termination of the covenants in this Agreement and the Deed with respect to the obligations of the Purchaser to construct the applicable Project or phase thereof. The Certificates shall be in recordable form. Within forty-five (45) days after receipt of a written request by the Purchaser for a Certificate, the City shall provide the Purchaser with either the Certificate or a written statement indicating in specific detail how the Purchaser has failed to complete the applicable Project or phase thereof in conformity with the Plan or this Agreement, or is otherwise in default, and what measures or acts will be necessary for the Purchaser to take or perform in order to obtain the Certificate. If the City requires additional measures or acts to assure compliance, the Purchaser shall resubmit a written request for the Certificate upon compliance with the City's response. Within forty-five (45) days following issuance of the Certificate for each Project or phase thereof, the City shall return the Performance Deposit to the Purchaser.

SECTION 10. RESTRICTIONS ON USE.

The Purchaser agrees that it:

- A. Shall devote the Property to a commercial use approved by the Plan until December 19, 2003, unless otherwise approved by the City, and
- B. Shall not discriminate based upon race, color, religion, sex, national origin or ancestry, military status, sexual orientation, source of income, age, handicap, in the sale, lease, rental, use or occupancy of the Property or the improvements.

SECTION 11. PROHIBITION AGAINST TRANSFER OF PROPERTY.

Prior to the issuance of the Certificate by the City with regard to completion of the Improvements, the Purchaser shall not, without the prior written consent of the City: (a) sell or convey the Property or any part thereof; or (b) create any assignment with respect to this Agreement or the Property that would take effect prior to the issuance of the Certificate for the applicable Project by the City except as provided in Section 12 hereof; or (c) contract or agree to: (1) sell or convey the Property, or (2) create any assignment with respect to this Agreement or the Property that would take effect prior to the issuance of the Certificate by the City provided, however, that the Purchaser shall have the right without further approval of the City to convey that portion of the Property which will be improved with (i) Project A to East Lake, and (ii) Project B to New Rogers upon notice the City and provided further, that the respective parcels of Property may be conveyed to nominees or affiliates of East Lake and New Rogers subject to the review and approval by the Department of

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Planning of the City of an economic disclosure statement of any such nominee or affiliate, which approval shall not be unreasonably withheld. If the Property is acquired by a corporation, partnership or other legal entity, there shall be no transfer of ten percent (10%) or more interest in the entity nor any similar significant change in the constitution of the entity until the Certificate is issued or the City consents in writing to the transfer or change except as provided in this Section 11. The provisions of this Section 11 shall not limit the Purchaser's rights under Section 12 of this Agreement.

SECTION 12. LIMITATION UPON ENCUMBRANCE OF PROPERTY.

Prior to the completion of the Improvements and the issuance of the Certificate for the applicable Project or phase thereof by the City, the Purchaser shall not engage in any financing or other transaction which creates an encumbrance or lien upon the Property, except for the purposes of obtaining: (a) funds necessary to acquire the Property; (b) funds necessary to construct the Improvements; or (c) funds necessary for architects, surveyors, appraisers, environmental consultants or attorneys in connection with the Project.

SECTION 13. MORTGAGEES NOT OBLIGATED TO CONSTRUCT.

Notwithstanding any other provision of this Agreement or of the Deed, the holder of any mortgage on the Property authorized by Section 12 of this Agreement shall not be obligated to construct or complete the improvements; provided, however, that the foregoing provision shall not apply to any purchaser, other than the holder of the mortgage, of the Property at a foreclosure sale. Nothing in this Section nor in any other section of this Agreement shall be deemed or construed to permit or authorize any such holder of a mortgage to devote the Property to any use, or to construct any improvements thereon, other than those uses or improvements permitted in the Plan.

SECTION 14. COVENANTS RUNNING WITH THE LAND.

The parties agree, and the Deed shall so expressly provide, that the covenants provided in Sections 8, 10, 11 and 12 shall be covenants running with the land, binding the Purchaser and its successors and assigns to the fullest extent permitted by law and equity for the benefit and in favor of the City, and shall be enforceable by the City. The covenants provided in Sections 8, 11 and 12 shall terminate upon issuance of the Certificate. The covenant described in Section 10(A) shall expire on December 19, 2003.

SECTION 15. PERFORMANCE AND BREACH.

A. Time of the Essence. Time is of the essence in the parties' performance of their obligations under this Agreement.

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B. Permitted Delays. The Purchaser shall not be considered in breach of its obligations with respect to the commencement or completion of construction of the Improvements in the event of a delay in the performance of such obligations due to unforeseeable causes beyond the Purchaser's control and without the Purchaser's fault or negligence, including but not limited to, delays or halts in construction of the Improvements which are compelled by court order, acts of God, acts of the public enemy, acts of the United States government, acts of the City, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, unusually severe weather or delays of subcontractors due to such causes. The time for the performance of the obligations shall be extended only for the period of the delay if the Purchaser requests it in writing of the City within thirty (30) days after the beginning of any such delay.

C. Breach.

1. Generally. Except as otherwise provided in this Agreement, in the event of a default by either party in the performance of its obligations under this Agreement, the defaulting party, upon written notice from the other, shall cure or remedy the default not later than sixty (60) days after receipt of such notice. If the default is not capable of being cured within the sixty (60) day period but the defaulting party has commenced action to cure the default and is diligently proceeding to cure the default within the sixty (60) day period, then the sixty (60) day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the aggrieved party may terminate this Agreement and institute such proceedings at law or in equity as may be necessary or desirable in its sole discretion to cure and remedy the default, including but not limited to, proceedings to compel specific performance.
2. Event of Default. For purposes of this Agreement, the occurrence of any one or more of the following shall constitute an "event of default":
 - a. The Purchaser fails to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations required under this Agreement; or
 - b. The Purchaser makes or furnishes a warranty, representation, statement or certification to the City which is not true and correct in any material respect; or
 - c. A petition is filed by or against the Purchaser under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereinafter existing, which is not vacated, stayed or set aside within thirty (30) days after filing; or

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- d. The Purchaser abandons or substantially suspends the construction of the Improvements, and such abandonment or suspension is not cured, ended, or remedied within ninety (90) days of the date the Purchaser receives written demand by the City to commence construction; or
 - e. The Purchaser fails to timely pay real estate taxes or assessments affecting the Property or suffers or permits any levy or attachment, material suppliers' or mechanics' lien, or any other lien or encumbrance unauthorized by this Agreement to attach to the Property which is not paid or otherwise remedied within ninety (90) days;
 - f. The Purchaser makes an assignment, pledge, encumbrance, transfer or other disposition in violation of this Agreement.
 - g. The Purchaser's financial condition or operations adversely changes to such an extent that would materially affect the Purchaser's ability to complete the Improvements; or
 - h. The Purchaser fails to comply with the terms of any other written agreement entered into with the City or any loan issued by the City.
3. Prior to Conveyance. If prior to the conveyance of the Property, the Purchaser defaults in any specific manner described in this Section 15.C., the City may terminate this Agreement, institute any action or proceeding at law or in equity against the Purchaser, and retain the Earnest Money and Performance Deposit.
4. After Conveyance. If subsequent to the conveyance of the Property to the Purchaser but prior to the issuance of the Certificate, the Purchaser defaults in any specific manner described in this Section 15.C., the City, by written notice to the Purchaser, may utilize any and all remedies available to the City at law or in equity, including but not limited to, the right to re-enter and take possession of the Property, terminate the estate conveyed to the Purchaser, and re-vest title to the Property in the City; provided, however, that the re-vesting of title in the City shall be limited by, and shall not defeat, render invalid, or limit in any way, the lien of any mortgage authorized by this Agreement.
5. Resale of the Property. Upon the re-vesting in the City of title to the Property as provided in Section 15.C.4., the City shall employ its best efforts to convey the Property (subject to the mortgage liens described in this Section)

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to a qualified and financially responsible party (as solely determined by the City) who shall assume the obligation of completing the construction of the Improvements or such other improvements as shall be satisfactory to the City.

6. Disposition of Resale Proceeds. If the City sells the Property, the proceeds from the sale shall be utilized to reimburse the City for:
- a. costs and expenses incurred by the City, including but not limited to, salaries of personnel in connection with the recapture, management and resale of the Property (less any income derived by the City from the Property in connection with such management); and
 - b. all taxes, assessments, and water and sewer charges assessed against the Property; and
 - c. any payments made (including attorneys' fees) to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Purchaser; and
 - d. any expenditures made or obligations incurred with respect to construction or maintenance of the Improvements; and
 - e. any other amounts owed to the City by the Purchaser.

The Purchaser shall be entitled to receive any proceeds up to the amount of the Purchaser's investment in the Property not utilized in meeting the expenses of the City described herein.

In addition to, and without in any way limiting the City's rights under this Section 15, the City shall have the right to retain the Performance Deposit in the event of a default by the Purchaser.

D. Waiver and Estoppel. Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the City of or limit such rights in any way. No waiver made by the City with respect to any specific default by the Purchaser shall be construed, considered or treated as a waiver of the rights of the City with respect to any other defaults of the Purchaser.

E. Access to the Property. After the Closing, any duly authorized representative of the City shall have access to the Property at all reasonable times for the purpose of confirming the Purchaser's compliance with this Agreement.

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SECTION 16. CONFLICT OF INTEREST; CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.

The Purchaser warrants that no agent, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested. No agent, official, or employee of the City shall be personally liable to the Purchaser or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Purchaser or successor or on any obligation under the terms of this Agreement.

SECTION 17. INDEMNIFICATION.

The Purchaser agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with: (i) the failure of the Purchaser to perform its obligations under this Agreement; (ii) the failure of the Purchaser or any contractor to pay contractors, subcontractors or material suppliers in connection with the construction of the Improvements; (iii) a material misrepresentation or omission in the Plan which is the result of information supplied or omitted by the Purchaser or by any agents, employees, contractors or persons acting under the control or at the request of the Purchaser; (iv) the failure of the Purchaser to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto; and (v) any negligent actions resulting from any activity undertaken by the Purchaser on the Property after the conveyance of said Property to the Purchaser by the City. This indemnification shall survive any termination of this Agreement.

SECTION 18. ENVIRONMENTAL AND SOILS CONDITIONS.

The City makes no covenant, representation or warranty as to the environmental condition of the Property or the suitability of the Property for any purpose whatsoever. Purchaser agrees to accept the Property in "as is" condition subject to the remaining terms of this paragraph.

Purchaser has caused to be conducted by LIU Architects, P.C., a Phase I Environmental Assessment, dated October 31, 1997, and a Phase II Subsurface Soil Investigation dated April 17, 1998 (collectively, the "Environmental Reports") for the purpose of determining the soil and environmental condition of the Property. The Environmental Reports, copies of which were previously submitted to the City, revealed the presence of petroleum-contaminated soil at the northwest corner of 2801-2811 South State Street and, further, that future excavation of the site at 2802-2822 South Wabash

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Avenue may uncover a 15,000 gallon UST (collectively, the "Adverse Environmental Conditions"). According to the Environmental Reports, the estimated cost to remediate the Adverse Environmental Conditions is approximately \$70,000.

The Purchaser desires to proceed with the purchase of the Property provided that the City will pay the costs and expenses required to remediate the Adverse Environmental Conditions to an amount not to exceed \$50,000 and provided, further that any additional costs and expenses expended by Purchaser for the remediation of the Adverse Environmental Conditions to an amount not to exceed \$20,000 will be subject to reimbursement by the City from the proceeds of Tax Increment Allocation Financing (TIF) upon approval by the City. At Closing, the City will deposit in an escrow account the sum of \$50,000 (the "Escrow Amount"), with Chicago Title Insurance Company (the "Escrow Trustee"). The Escrow Amount shall be used to pay costs and expenses incurred for remediating the Adverse Environmental Conditions. The Escrow Trustee shall disburse funds from the Escrow Account in order to pay consultants and contractors for their services in remediating the Adverse Environmental Conditions upon written authorization for the disbursement of such funds by the City and the Purchaser. All interest accruing in the Escrow Account following remediation shall be paid to the City, provided, however, that payment of such interest shall occur only after the remediation has been completed and all expenses arising from those efforts have been paid. If necessary, the accrued interest shall be available for payment of such remediation costs and expenses. To the extent that the costs and expenses required to remediate the Adverse Environmental Condition exceed \$50,000 the Purchaser shall have the right to request reimbursement by the City of an amount not to exceed \$20,000 from TIF funds derived from the Bronzeville Redevelopment Project.

Promptly following the deposit of the Escrow Amount, the Purchaser shall engage the services of an environmental consultant to devise a remediation plan to eliminate the Adverse Environmental Conditions in accordance with all applicable federal, state and local laws and regulations. In addition, the Purchaser shall retain a fully licensed environmental contractor to remediate the Adverse Environmental Conditions pursuant to the remediation plan prepared by the environmental consultant. Any contract between the Purchaser and the environmental consultant or the environmental contractor shall require such entity to obtain environmental liability insurance in such amounts as shall be determined by the Purchaser and that such policies name the City among the insureds. The City shall have the right to approve the remediation plan as well as the environmental consultant and environmental contractor engaged by the Purchaser provided, however, that such approval shall not be unreasonably withheld. If after the remediation has been completed by Purchaser pursuant to this paragraph the environmental and/or soil condition of the Property is not in all respects entirely suitable for the use to which the Property is to be utilized, it shall be the sole responsibility and obligation of the Purchaser to take such further action as is necessary to put the Property in a condition entirely suitable for the intended use of the Property. The Purchaser agrees to release any claims and liabilities

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relating to or arising from the environmental condition of the Property that the Purchaser may have against the City.

SECTION 19. PURCHASER'S EMPLOYMENT OBLIGATIONS.

A. Employment Opportunity. The Purchaser agrees, and shall contractually obligate its various contractors, subcontractors or any affiliate of the Purchaser operating on the Property (collectively, the "Employers" and individually, an "Employer") to agree that with respect to the provision of services in connection with the construction of the Improvements or occupation of the Property:

1. Neither the Purchaser nor any Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Section 2-160-010 *et seq.* of the Municipal Code of Chicago, as amended from time to time (the "Human Rights Ordinance"). The Purchaser and each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Purchaser and each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Purchaser and each Employer, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.
2. To the greatest extent feasible, the Purchaser and each Employer is required to present opportunities for training and employment of low and moderate income residents of the City; and to provide that contracts for work in connection with the construction of the Improvements be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the City.

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3. The Purchaser and each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including, but not limited to, the Human Rights Ordinance, and the Illinois Human Rights Act, 775 ILCS 511-101 *et seq.* (1993), and any subsequent amendments and regulations promulgated thereto.
4. The Purchaser, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.
5. The Purchaser and each Employer shall include the foregoing provisions of subparagraphs 1 through 4 in every contract entered into in connection with the construction of the Improvements, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or affiliate, as the case may be.
6. Failure to comply with the employment obligations described in this Section 19.A. shall be a basis for the City to pursue remedies under the provisions of Section 15, above.

B. City Resident Employment Requirement: The Purchaser agrees, and shall contractually obligate the Employers to agree that during the construction of the Improvements they shall comply with the minimum percentage of total worker hours performed by actual residents of the City of Chicago as specified in Section 3-92-330 of the Municipal Code of Chicago (at least fifty percent (50%) of the total worker hours worked by persons on the construction of the Improvements shall be performed by actual residents of the City of Chicago); provided, however, that in addition to complying with this percentage, the Purchaser and the Employers shall be required to make good faith efforts to utilize qualified residents of the City of Chicago in both unskilled and skilled labor positions.

The Purchaser and the Employers may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Purchasing Agent of the City of Chicago.

"Actual residents of the City of Chicago" shall mean persons domiciled within the City of Chicago. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

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The Purchaser and the Employers shall provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed on the construction of the Improvements. The Purchaser and the Employers shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Department in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the company hired the employee should be written in after the employee's name.

The Purchaser and the Employers shall provide full access to their employment records relating to the construction of the Improvements to the Purchasing Agent, the Department, the Superintendent of the Chicago Police Department, the Inspector General, or any duly authorized representative thereof. The Purchaser and the Employers shall maintain all relevant personnel data and records for a period of at least three (3) years from and after the issuance of the Certificate.

At the direction of the Department, the Purchaser and the Employers shall provide affidavits and other supporting documentation to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Purchaser and the Employers to provide work for actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

In the event that the City has determined that the Purchaser or an Employer failed to ensure the fulfillment of the requirements of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance which has not been remedied in accordance with the breach and cure provisions contained in Section 15.C. herein, it is agreed that 1/20 of 1 percent (.05%) of the aggregate hard construction costs set forth in the Purchaser's budget shall be surrendered by the Purchaser and for the Employers to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Purchaser and/or the other Employers or employee to prosecution.

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Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement.

The Purchaser shall cause or require the provisions of this Section 19. B. to be included in all construction contracts and subcontracts related to the construction of the Improvements.

C. The Purchaser's MBE/WBE Commitment. The Purchaser agrees, and shall contractually obligate the Employers to agree, that during the construction of the Improvements:

1. Consistent with the findings which support the Minority-Owned and Women Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 *et seq.* of the Municipal Code of Chicago, and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 19.C., during the course of construction of the Improvements, at least the following percentages of the aggregate hard construction costs shall be expended for contract participation by minority-owned businesses ("MBEs") and by women-owned businesses ("WBEs"):
 - a. At least 25 %by MBEs.
 - b. At least 5 %by WBEs.
2. For purposes of this Section 19.C. only, the Purchaser (and any party to whom a contract is let by the Purchaser pursuant to this Agreement) shall be deemed a "Contractor" and this Agreement (and any contract let pursuant thereto) shall be deemed a "Contract" as such terms are defined in Section 2-92-420 of the Municipal Code of Chicago. In addition, the term "minority-owned business" or MBE shall mean a business enterprise identified in the Directory of Certified Minority Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise; and the term "women-owned business" or WBE shall mean a business- enterprise identified in, the Directory of Certified Women Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.
3. Consistent with Section 2-92-440 of the Municipal Code of Chicago, the Purchaser's MBE/WBE commitment may be achieved by the Purchaser

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utilizing a MBE or a WBE as a contractor, by subcontracting or causing a contractor to subcontract a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the construction of the Improvements from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Purchaser's MBE/WBE commitment as described in this Section 19.C.

4. The Purchaser shall deliver quarterly reports to the Department describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include *inter alia* the name and business address of each MBE and WBE solicited by the Purchaser or a contractor to work on the Improvements and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the construction, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the Department in determining the Purchaser's compliance with this MBE/WBE commitment. The Department shall have access to the Purchaser's books and records relating to the construction of the Improvements, to allow the City to review the Purchaser's compliance with its commitment to MBE/WBE participation.
5. The City shall have the right to terminate this Agreement upon the disqualification of a contractor as a MBE or WBE, if the contractor's status as a MBE or WBE was a factor in the approval of the Purchaser, and such status was misrepresented by the contractor or the Purchaser. In addition, the City shall have the right to terminate this Agreement upon the disqualification of any MBE or WBE subcontractor or supplier of goods or services if the subcontractor's status as a MBE or WBE was a factor in the approval of the Purchaser, and such status was misrepresented by the contractor or the Purchaser. In the event that the Purchaser is determined not to have been involved in any misrepresentation of the status of the disqualified contractor, subcontractor or supplier, the Purchaser shall be obligated to discharge or cause to be discharged the disqualified contractor or subcontractor or to terminate any contract or business with the disqualified supplier, and, if possible, identify a qualified MBE or WBE as a replacement. Failure by the Purchaser to diligently pursue such course of action will result in the City's option to unilaterally terminate this Agreement. For purposes of this subparagraph 5, the disqualification procedures are further described in Section 2-92-450 of the Municipal Code of Chicago.

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6. Any reduction or waiver of the Purchaser's MBE/WBE commitment as described in this Section 19.C. shall be undertaken in accordance with Section 2-92-450 of the Municipal Code of Chicago.
5. Any reduction or waiver of the Purchaser's MBE/WBE commitment as described in this Section 19.C. shall be undertaken in accordance with Section 2-92-450 of the Municipal Code of Chicago.

D. Pre-Construction Meeting: Monitoring Requirements. Prior to the commencement of construction of the Improvements, the Purchaser shall meet with the monitoring staff of the Department with regard to the Purchaser's compliance with its employment obligations, the sufficiency of which must be approved by the Department as a pre-condition to the Department's approval to allow the Purchaser to commence with the construction of Improvements. During the construction of the Improvements, the Purchaser shall submit documentation (as required in Sections 19.A. and 19.C., above) to the monitoring staff of the Department. The failure to submit such documentation on a timely basis, or if the Department determines, upon analysis of the documentation that the Purchaser is not complying with its employment obligations described in this Section 19, shall upon the delivery of written notice to Purchaser be deemed a default. In such event, in addition to any remedies described in this Section 19, the City may: (1) issue a written demand to the Purchaser to halt construction of Improvements; or (2) seek any other remedies against the Purchaser available at law or in equity.

E. In the event of a default by the Purchaser in the performance of its obligations under this Section 19, the notice and cure provisions contained in Section 15, above, shall apply.

SECTION 20. PROVISIONS NOT MERGED WITH DEED.

The provisions of this Agreement shall not be merged with the Deed, and the delivery of the Deed shall not be deemed to affect or impair the provisions of this Agreement.

SECTION 21. HEADINGS.

The headings of the various sections of this Agreement have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending, or affecting in any way the express terms and provisions thereof.

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SECTION 22. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

SECTION 23. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement between the parties and supersedes and replaces completely any prior agreements between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended in any manner other than by supplemental written agreement executed by the parties.

SECTION 24. SEVERABILITY.

If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof is held invalid, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

SECTION 25. NOTICES.

Any notice, demand or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) electronic communications, whether by telex, telegram or telecopy; (c) overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City:

City of Chicago Department of Planning
and Development
121 North LaSalle Street
Room 1000 - City Hall
Chicago, Illinois 60602
Fax: 312/744-5826

With a copy to:

City of Chicago
Department of Law
30 North LaSalle Street
Suite 1610
Chicago, Illinois 60602
Attn: Real Estate Division
Fax: 312/742-0277

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If to the Purchaser: New Rogers Pontiac/East Lake Management/
Development Joint Venture
c/o East Lake Management Development Co.
2850 South Michigan Avenue
Chicago, Illinois 60616
Fax: 312/842-0765

With a copy to: New Rogers Pontiac
2720 South Michigan Avenue
Chicago, Illinois 60616

and: Earl L. Neal & Associates
111 West Washington St.,
Suite 1700
Chicago, Illinois 60602
Attn: Anne L. Fredd
Fax: (312) 641-5137

Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means, respectively. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.

SECTION 26. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall constitute an original instrument.

SECTION 27. ORGANIZATION AND AUTHORITY.

The Purchaser represents and warrants that it is duly organized and validly existing under the laws of the State of Illinois, with full power and authority to acquire, own and redevelop the Property, and that the person(s) signing this Agreement on behalf of the Purchaser has the authority to do so.

SECTION 28. SUCCESSORS AND ASSIGNS.

Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall apply to and bind the successors and assigns of the parties.

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SECTION 29. TERMINATION.

In the event that the Closing has not occurred within twelve (12) months from the date of this Agreement, either party may terminate this Agreement upon written notice to the other. Within forty-five (45) days following such termination, the City shall return the Earnest Money and Performance Deposit to the Purchaser. However, if the Closing has not occurred within twelve (12) months through no fault of the City, then the City may retain the Earnest Money and Performance Deposit as liquidated damages.

SECTION 30. RECORDATION OF AGREEMENT.

Either party may record this Agreement at the Office of the Cook County Recorder of Deeds. The party so choosing to record this Agreement shall pay the recording fees.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on or as of the day and year first above written.

CITY OF CHICAGO,
an Illinois municipal corporation

By: _____


CHRISTOPHER R. HILL
Commissioner of Planning and
Development

NEW ROGERS PONTIAC/EAST LAKE
MANAGEMENT AND DEVELOPMENT JOINT
VENTURE, an Illinois joint venture

By: NEW ROGERS PONTIAC, INC.,
an Illinois corporation

By: _____


President

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By: EAST LAKE MANAGEMENT AND
DEVELOPMENT CORP.,
an Illinois corporation

By: *Jory W. Wishnoff*
Vice President - General Counsel

This instrument was prepared by:

Jory Wishnoff
Senior Supervising Attorney
30 North LaSalle Street, Suite 1610
Chicago, Illinois 60602
(312) 744-6910



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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Parcel C-8

LOTS 25, 26, 27, 28 (EXCEPT THE WEST 64 FT. OF SAID LOTS 25 TO 28) LOT 29 AND THE WEST 6 FT. OF THE NORTH 60 FT. TOGETHER WITH THE WEST 3 FT. OF THE SOUTH 63.75 FT. OF LOT 30, ALL IN J.B. THOMAS' SUBDIVISION OF BLOCK 87 IN CANAL TRUSTEES SUBDIVISION OF WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDAN, IN COUNTY, ILLINOIS.

LOTS 37 THRU 48, INCLUDING THE VACATED ALLEY IN THE NORTH 18 FT. OF LOT 42 (EXCEPTING THE WEST 64 FT. OF SAID LOTS 37 THRU 48, ALSO EXCEPT THE FOLLOWING DESCRIBED PARTS OF SAID LOTS 37 THRU 48: THE EAST 42 FT. OF LOTS 37 THRU 43, THE EAST 36 FT. OF LOTS 44 AND 45, THE EAST 35 FT. OF LOT 46 AND THE EAST 34 FT. OF LOTS 47 AND 48), ALL IN JOHN G. BARRETT'S SUBDIVISION OF BLOCK 88 IN CANAL TRUSTEES SUBDIVISION OF THE WEST 1/2 OF SECTION 27, AFORESAID.

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Parcel C-9D

LOTS 6 TO 12, BOTH INCLUSIVE, AND LOT 13 (EXCEPT THE WEST 13 FT. THEREOF) IN BONFIELD'S SUBDIVISION OF LOTS 31 TO 39 AND PART OF LOTS 30 AND 40 IN J.B. THOMAS' SUBDIVISION OF BLOCK 87 IN THE CANAL TRUSTEES SUBDIVISION OF THE WEST 1/2 OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDAN, IN COOK COUNTY, ILLINOIS.

LOTS 25 TO 36, BOTH INCLUSIVE, IN JOHN G. BARRETT'S SUBDIVISION OF BLOCK 88 IN CANAL TRUSTEES SUBDIVISION OF THE WEST 1/2 OF SECTION 27, AFORESAID.

THE EAST 1/2 OF THE VACATED 16 FT. ALLEY LYING WEST OF AND ADJOINING LOTS 25 TO 30 AND THE NORTH 18 FT. OF LOT 31, ALSO THE EAST 7.50 FT. OF THE VACATED 16 FT. ALLEY LYING WEST OF AND ADJOINING LOTS 31 AND 36 (EXCEPT THE NORTH 18 FT. OF LOT 31) IN JOHN G. BARRETT'S SUBDIVISION, AFORESAID.

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EXHIBIT B

NARRATIVE DESCRIPTION OF PROJECT

Project A: Approximately 15,000 square foot building on the north half of the Property which will be used as a surface parking lot (Phase I) and an auto and truck showroom and service facility (Phase II) for New Rogers Pontiac.

Project B: Approximately 40,000 square foot building on the south half of the Property which will be constructed by East Lake Management and Development Corp. for use as an office and community service facility.

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EXHIBIT C

DRAWINGS

Property of Cook County Clerk's Office

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